

ESTTA Tracking number: **ESTTA694833**

Filing date: **09/09/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Converse Inc.
Granted to Date of previous extension	09/09/2015
Address	160 North Washington Street Boston, MA 02114 UNITED STATES
Attorney information	B. Anna McCoy Alleman Hall McCoy Russell & Tuttle LLP 806 SE Broadway Suite 600 Portland, OR 97205 UNITED STATES mccoy@ahmrt.com, hill@ahmrt.com, docketing@ahmrt.com, mercer@ahmrt.com Phone:503-459-4141

### Applicant Information

Application No	86384309	Publication date	05/12/2015
Opposition Filing Date	09/09/2015	Opposition Period Ends	09/09/2015
Applicant	Barry's Bootcamp Holdings, LLC 14622 Ventura Blvd, Suite 201 Sherman Oaks, CA 91403 UNITED STATES		

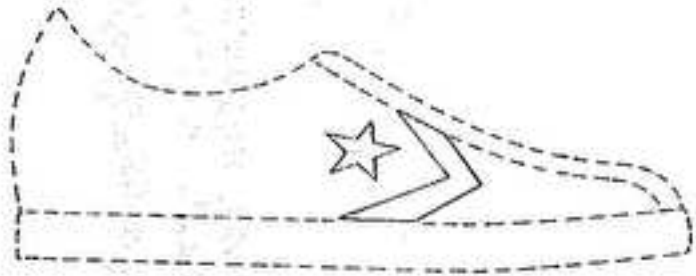
### Goods/Services Affected by Opposition


Class 025. First Use: 2013/09/19 First Use In Commerce: 2013/09/19 All goods and services in the class are opposed, namely: clothing, namely, t-shirts, sweatshirts, pants, shirts, shorts and caps
Class 028. First Use: 2013/09/19 First Use In Commerce: 2013/09/19 All goods and services in the class are opposed, namely: Exercise, fitness, and athletic equipment, namely, weights, resistance bands and inflatable workout balls
Class 041. First Use: 2013/09/19 First Use In Commerce: 2013/09/19 All goods and services in the class are opposed, namely: Exercise classes at a specialized fitness studio featuring treadmills and free weights for a comprehensive cardio and strength workout; physical fitness instruction; physical fitness training services; providing fitness and exercise facilities

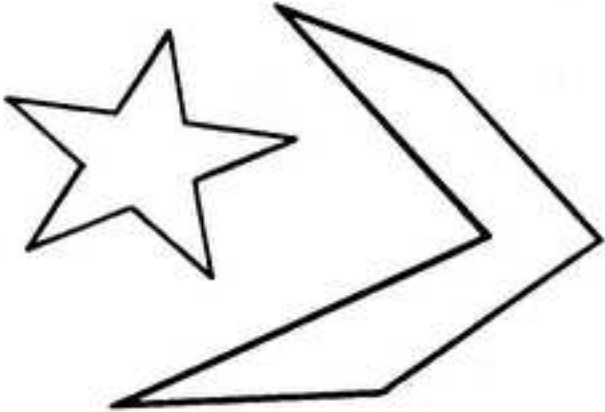
### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)
Other	Common law basis for opposition

## Marks Cited by Opposer as Basis for Opposition

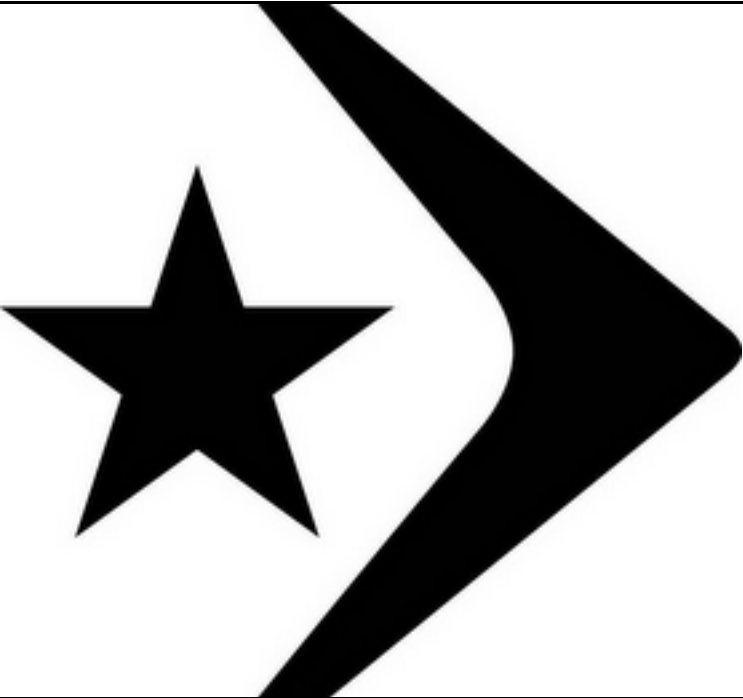
U.S. Registration No.	1053338	Application Date	02/24/1975
Registration Date	11/23/1976	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1974/10/00 First Use In Commerce: 1975/01/00 CANVAS AND IMITATION LEATHER TOPPED SOFT SOLED ATHLETIC SHOES AND CASUAL SHOES		

U.S. Registration No.	1215935	Application Date	01/19/1981
Registration Date	11/09/1982	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1979/11/00 First Use In Commerce: 1980/01/00		

	Shirts		
U.S. Registration No.	1525779	Application Date	11/02/1987
Registration Date	02/21/1989	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1978/02/01 First Use In Commerce: 1978/02/01 SOCKS		

U.S. Registration No.	2973804	Application Date	09/22/2003
Registration Date	07/19/2005	Foreign Priority Date	NONE
Word Mark	NONE		

Design Mark	
Description of Mark	The mark consists of a star and chevrongesign.
Goods/Services	Class 025. First use: First Use: 2003/10/00 First Use In Commerce: 2003/10/00 footwear

Attachments	73044904#TMSN.png( bytes ) 73293693#TMSN.png( bytes ) 73693236#TMSN.png( bytes ) 78303567#TMSN.png( bytes ) Notice of opposition to App. No. 86384309 (for filing) 9-9-15.pdf(68465 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/B. Anna McCoy/
Name	B. Anna McCoy
Date	09/09/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Converse Inc.,	)	
	)	
Opposer,	)	Serial No.: 86/384,309
	)	
v.	)	Opposition No. _____
	)	
Barry's Bootcamp Holdings, LLC	)	
	)	
Applicant.	)	
_____	)	

Commissioner for Trademarks  
Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1451  
Alexandria, VA 22313-1451

**NOTICE OF OPPOSITION**

In the matter of Barry's Bootcamp Holdings, LLC's ("Applicant") application Serial No.





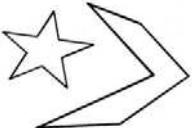
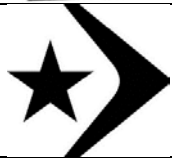
86/384,309 for , published in the *Official Gazette* on May 12, 2015, Converse Inc. ("Opposer"), a corporation organized under the laws of Delaware, with its principal place of business at 160 North Washington Street, Boston, Massachusetts 02114, believes that it will be damaged by registration of the mark shown in Serial No. 86/384,309 and hereby opposes registration.

The grounds for opposition are as follows:

1. Opposer is a corporation, doing business as Converse Inc., organized under the laws of Delaware, with its principal place of business at 160 North Washington Street, Boston, Massachusetts 02114.
2. Opposer has been and continues to be engaged in the business of designing, marketing and selling footwear, athletic shoes, sneakers, clothing, accessories, and other goods and related services in the United States and abroad.

3. One of Opposer's most prominent marks is the Star and Chevron Design, which features a five-pointed star and chevron. Opposer's earliest registration for the Star and Chevron Design claims a first use in commerce date of January 1975. Since at least as early as January 1975, Opposer has used and continues to use in interstate commerce the Star and Chevron Design. Opposer owns and uses the Star and Chevron Design to identify footwear, apparel, headwear, accessories, and other related goods and services originating from the Opposer in commerce.

4. An example list of Opposer's United States trademark registrations for its Star and Chevron Design is below.

<i>Mark</i>	<i>Registration Number</i>	<i>Registration Date</i>	<i>Goods and Services</i>
	1,053,338	Nov. 23, 1976	IC025: Canvas and imitation leather topped soft soled athletic shoes and casual shoes
	1,215,935	Nov. 9, 1982	IC025: Shirts
	1,525,779	Feb. 21, 1989	IC025: Socks
	2,973,804	July 19, 2005	IC025: footwear

5. Opposer also has common law rights in the Star and Chevron Design for use in connection with footwear, athletic shoes, sneakers, clothing, headwear, and related goods and services.


6. Opposer has used and continues to use the Star and Chevron Design and the goods in connection therewith have been popular and the subject of significant advertising and promotional activities.

7. The use of Opposer's Star and Chevron Design has been valid and continuous since the dates of first use, and Opposer has not abandoned the Star and Chevron Design. Opposer's Star and Chevron Design is symbolic of extensive goodwill and consumer recognition built up by Opposer through substantial amounts of time and effort in advertising and promotion. Opposer's Star and Chevron Design identifies and distinguishes Opposer's goods from the goods of others and identifies the source and origin thereof to both the trade and the public.

8. Prior to Applicant's adoption of its mark, Opposer's Star and Chevron Design has been used and promoted in such a way as to create a public perception of the design of a star and chevron as an indication of source.

9. Opposer's Star and Chevron Design is famous as that term is defined under Section 43(c) of the Trademark Act, 15 U.S.C. §1125(c).

10. Notwithstanding Opposer's rights in and to its Star and Chevron Design, Applicant, on

September 3, 2014, filed application Ser. No. 86/384,309 for  under Section 1(a) of the Trademark Act. Applicant's application was published for opposition in the *Official Gazette* on May 12, 2015.

11. The published application for  includes the following goods and services:

International Class 25: Clothing, namely, t-shirts, sweatshirts, pants, shirts, shorts and caps.

International Class 28: Exercise, fitness, and athletic equipment, namely, weights, resistance bands and inflatable workout balls.

International Class 41: Exercise classes at a specialized fitness studio featuring treadmills and free weights for a comprehensive cardio and strength workout; physical fitness instruction; physical fitness training services; providing fitness and exercise facilities.

12. Applicant claims a date of first use of September 19, 2013 for the applied-for goods and services in International Classes 25, 28, and 41.

13. Opposer's first use of the Star and Chevron Design is earlier than Applicant's first use.

14. Applicant's filing date is subsequent to Opposer's filing date for each of the Star and Chevron Design registrations.



15. Applicant's mark is highly similar to Opposer's Star and Chevron Design.

16. Applicant's applied-for goods are identical to or closely related to the goods offered by Opposer under its Star and Chevron Design in class 25 and consumers will likely be confused as to the source of the goods.

17. Applicant's mark, when used in connection with the goods in International Class 25 set forth in its application, is confusingly similar to Opposer's use of its Star and Chevron Design. If Applicant registers and uses its mark for the goods in International Class 25 in the U.S. it is likely to cause confusion, mistake, and deception among consumers regarding the source of Applicant's Goods. Registration of Applicant's mark may damage the goodwill and consumer recognition that Opposer has built up in its Star and Chevron Design.

18. Commercial use of Applicant's mark, including with the goods and services in applied-for International Classes 25, 28, and 41, will cause or is likely to cause dilution of the distinctive quality of Opposer's famous Star and Chevron Design, in violation of Section 43(c) of the Trademark Act, 15 U.S.C. §1125(c).

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's mark, and prays that registration be denied.



Opposer authorizes the Commissioner for Trademarks to charge the fee for filing this Notice of Opposition, or any other additional fees that may be due, to Deposit Account 504816.

DATED this 9th day of September, 2015.

Respectfully submitted,

Alleman Hall McCoy Russell & Tuttle LLP

A handwritten signature in black ink, appearing to read "B. Anna McCoy", is written over a horizontal line.

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B. Anna McCoy  
Oregon Bar Member  
Attorney for Opposer  
806 S.W. Broadway, Suite 600  
Portland, Oregon 97205  
Telephone: (503) 459-4141  
Facsimile: (503) 459-4142

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing NOTICE OF OPPOSITION was served by U.S. First Class Mail at the correspondence address of record below on this 9th day of September, 2015:

Ruth Rivard  
Stinson Leonard Street  
150 S. 5th Street Ste.2300  
Minneapolis, MN 55402-4223  
UNITED STATES

A handwritten signature in black ink, appearing to read "B. Anna McCoy", is written above a horizontal line.

B. Anna McCoy  
Attorney for Opposer